

STATE OF MICHIGAN  
COURT OF APPEALS

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DELTA AIRLINES, INC.,

Plaintiff-Appellee,

v

SPIRIT AIRLINES, INC.,

Defendant-Appellant.

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UNPUBLISHED

August 2, 2002

No. 224410

Wayne Circuit Court

LC No. 98-831174-CZ

Before: Neff, P.J., and Wilder and Cooper, JJ.

MEMORANDUM

Defendant Spirit Airlines appeals as of right from the circuit court order granting plaintiff Delta Airlines' motion for summary disposition, and entering judgment in favor of Delta and against Spirit in the amount of \$151,583.73 plus interest. This appeal arises from a dispute over the payment of taxes on an airport hanger owned by Wayne County. In 1982, Delta entered into a 20 year lease agreement with Wayne County for the use of the subject hanger. However, in 1994 Delta discontinued its use of the hanger and the hanger was leased to Spirit. Each lease required the lessee to pay all applicable taxes during the lease period. Despite the fact that Delta no longer leased the hanger, the City of Romulus assessed taxes in 1995 and 1996 against Delta and Delta paid the taxes assessed. Delta filed this action seeking reimbursement from Spirit, alleging a violation of MCL 211.381, breach of implied contract and unjust enrichment. The trial court ordered the requested relief, and this appeal ensued.

In *Delta Airlines v City of Romulus*, unpublished opinion per curiam of the Court of Appeals, issued \_\_/\_\_/2002 (Docket No.225881)<sup>1</sup>, we ordered the Michigan Tax Tribunal to enter a consent judgment, stipulated by Delta Airlines and the City of Romulus, which finds that the assessed taxable values against Delta for use of the subject property should be 0. In light of our opinion in *Delta Airlines v City of Romulus*, the matters at issue herein are moot.

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<sup>1</sup> This case is also being decided today by this panel.

Accordingly, we vacate the circuit court order granting summary disposition and remand for any further necessary proceedings<sup>2</sup>.

We do not retain jurisdiction.

/s/ Janet T. Neff  
/s/ Kurtis T. Wilder  
/s/ Jessica R. Cooper

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<sup>2</sup> Counsel for Spirit argued below that Spirit did not receive assessment notices from the City of Romulus in 1995 and 1996, and that Spirit should not now be precluded from asserting any applicable challenges to the assessments that could have been asserted at the time the assessments were issued. The trial court did not rule on this claim for equitable relief, but reserved consideration and resolution of such claims to any action between Spirit and the City of Romulus. While we do not address these matters herein, we cannot discern from the record whether any such action between Spirit and the City of Romulus exists, and therefore, we remand to the trial court only to determine whether any additional proceedings are warranted.